

IN THE ARBITRATION UNDER CHAPTER ELEVEN
OF THE NORTH AMERICAN FREE TRADE AGREEMENT
AND THE UNCITRAL ARBITRATION RULES
BETWEEN

UNITED PARCEL SERVICE OF AMERICA, INC.,

Claimant/Investor,

-and-

GOVERNMENT OF CANADA,

Respondent/Party.

**FIRST SUBMISSION
OF THE UNITED STATES OF AMERICA**

1. Pursuant to Article 1128 of the North American Free Trade Agreement (“NAFTA”), the United States of America makes this submission on certain questions of interpretation of the NAFTA. Those questions are raised in connection with the Petition to the Arbitral Tribunal (“Petition”), dated May 10, 2001, of certain non-investor third parties (“Petitioners”). No inference should be drawn from the absence of comment on any issue not addressed here.
2. Petitioners seek an order from the Tribunal granting them standing as parties in this arbitration. In the alternative, they seek standing as *amici curiae* and, in addition, the right to present and challenge evidence, an order requiring the Claimant and Respondent to publicly disclose various submissions, and the right to make submissions concerning the place of arbitration, the Tribunal’s jurisdiction and the arbitrability of the claims.
3. The United States joins Canada in the view that arbitral tribunals are not authorized under the NAFTA to grant requests of third parties such as Petitioners to intervene as parties in Chapter Eleven arbitral proceedings, but that, in proceedings

governed by the UNCITRAL Arbitration Rules, tribunals are authorized to accept written submissions of such third parties as *amici curiae*.

Respectfully submitted,

Mark A. Clodfelter

*Assistant Legal Adviser for International
Claims and Investment Disputes*

Barton Legum

*Chief, NAFTA Arbitration Division, Office
of International Claims and Investment
Disputes*

Alan Birnbaum

*Attorney-Adviser, Office of International
Claims and Investment Disputes*

United States Department of State
Washington, D.C. 20520

June 11, 2001